

# ADMISSIBILITY & RECEIPT OF EVIDENCE



OFFICE OF THE CHIEF IMMIGRATION JUDGE  
ACIJ JACK H. WEIL  
OCTOBER 16, 2018

[illegible]

STEIN '55  
RICHIE M. H.  
N. S. H. L.  
J. J. A.

In removal proceedings under section 240 of the Immigration and Nationality Act

(b) (6)

In the Matter of:

Respondent:

(b) (6)

currently residing at:

IN I&NS CUSTODY

(Number, street, city state and ZIP code)

DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW

- ☐ 1. You are an arriving alien.  
☒ 2. You are an alien present in the United States who has not been admitted or paroled.  
☐ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

JAN 27 2003

FILED WITH

SAN DIEGO, CA

The Service alleges that you:

- 1) You are not a citizen or national of the United States;
- 2) You are a native of CHINA, PEOPLES REPUBLIC OF and a citizen of CHINA, PEOPLES REPUBLIC OF;
- 3) (b) (6)
- 4) You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212 (a) (6) (A) (i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.  
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: \_\_\_\_\_  
a place to be set

on a date to be set \_\_\_\_\_ at a time to be set \_\_\_\_\_ to show \_\_\_\_\_  
(Date) (Time)

charge(s) set forth above.

(b) (7)(C)

Date: January 22, 2003

San Diego, California

(City and State)

See reverse for important information



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or torture.

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(Date) (Time) \_\_\_\_\_  
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Date: January 22, 2003

San Diego, California

(City and State)

See reverse for important information

~~COR/LPR~~

~~COR/NLPR~~

PRE-VR

Legal – **NO**

~~POST VR~~

1X = **2018**

~~ASYLUM~~

Hurt - **NO**

~~WITHHOLDING~~

~~209~~

M(arried) – **NO**

~~CAT~~

K(ids) – **NO**

~~212(c)~~

P(arents) – **NO**

~~212(h)~~

F(iled) – **NO**

~~ADJUSTMENT~~

\$ - **NO**

~~REGISTRY~~

Victim - **NO**

~~TPS~~

~~NACARA~~

# *The Issue*





A muscular man is shown from the back, pushing a large, heavy, grey rock up a steep, rocky incline. The rock is the central focus and has the words "Burden of Proof" inscribed on it in a white, serif font. The man is wearing a dark, form-fitting outfit, and his muscles are clearly defined. The background is a solid, light brown color, suggesting a desert or a dry, rocky landscape. The overall tone is one of struggle and effort.

Burden  
of Proof

Determine who  
has the burden  
of proof &  
what is that  
burden

Preponderance of  
the evidence

Clear & convincing

Clear probability

More likely than not

Beyond a doubt

# Receiving & Organizing Evidence





## Find Exhibit #4



# Recommendation for Receiving Evidence

**1.**



**Documents**

**2.**



**Testimony**

**3.**



**Other evidence**

# Tracking Evidence

## Evidence Collection Worksheet

Matter of \_\_\_\_\_; A \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

### A. Documents

Exhibit 1 - Notice to Appear ( ID / AD )

Exhibit \_\_\_\_ - \_\_\_\_\_ ( ID / AD )

Exhibit \_\_\_\_ - \_\_\_\_\_ ( ID / AD )

Exhibit \_\_\_\_ - \_\_\_\_\_ ( ID / AD )

Exhibit \_\_\_\_ - \_\_\_\_\_ ( ID / AD )

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Exhibit \_\_\_\_ - \_\_\_\_\_ ( ID / AD )

COR/LPR  
COR/NLPR  
PRE -VR  
POST-VR  
ASYLUM  
WITHHOLDING  
TORTURE  
REFUGEE  
REGISTRY  
ADJUSTMENT  
212(h)  
TPS  
NACARA  
212(c)  
DV, Traffic, Crime, Harm

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Parents = USC

### A. Testimony

Name of Witness:

Called by:

\_\_\_\_\_ ( DHS / R )

\_\_\_\_\_ ( DHS / R )

\_\_\_\_\_ ( DHS / R )

\_\_\_\_\_ ( DHS / R )

\_\_\_\_\_ ( DHS / R )

\_\_\_\_\_ ( DHS / R )

### B. Other Evidence

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_



# Linking Evidence & Issues

Cancellation for Non-Permanent Residents	Documents	Testimony	Other
10 years presence	Ex 1 School Record Ex 3 Utility Bill Ex 5 Pay Stub	Neighbor Employer	
Good moral character	Ex 6 Certificate Ex 8 Friend Letter	Sister Pastor	Proffer re: Brothers
No disqualifying conviction	Ex 9 State Clearance		Stipulated
Exceptional & extremely unusual hardship	Ex 10 Marriage cert. Ex 11 D' s birth cert. Ex 12 Medical doc.	Dr. Smith Teacher Daughter	
Discretion	Ex 13 Church Letter Ex 14 Charity Letter	Respondent	

# Admissibility of Evidence in Immigration Proceedings

**The test for admissibility of evidence in immigration proceedings is:**

- 1. Whether the evidence offered has probative value (i.e., tendency to make the existence of any fact of consequence more or less probable), and**
- 2. Whether its use is consistent with a fair hearing.**



# Credibility Findings

A person wearing a dark, textured suit jacket is shown from the waist up. Their hands are clasped behind their back. The background is a warm, golden-brown color with vertical lines, suggesting a wood-paneled wall. The overall lighting is soft and warm.











# ***Credibility Factors***

***Is he for real!?***



**Candor**

**Responsiveness**

**Inherent plausibility**

**Demeanor**

**Consistency**

**Corroboration**

**Any other factor**

# *Credibility Findings*

***Is he for real!?***

**Oral decision must include an explicit finding as to whether testimony is credible.**

**If you find a witness not credible, you must explain why. If it is due to an inconsistency, identify the inconsistency, give an opportunity to explain, explain why you are not persuaded, and state how the inconsistency is central.**

**There are many reasons one may not be credible besides lying.**

**Be culturally sensitive in assessing demeanor.**





# Keep the Record Neat & Organized

Control your courtroom & enforce well-established rules & practices.

